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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/786,707

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Zidu Ma

67,097-023; EH-11106

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26096 7590 04/28/2008
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EXAMINER

FORTUNA, ANA M

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/786,707
Filing Date: February 25, 2004
Appellant(s): MA ET AL.

Ellington et al.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1/21/08 appealing from the Office action mailed 8/6/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,116,650	Bowser	5/1992
5,051,114	Nemser et al	9/1991
6,709,492	Spadaccini et al.	3/2004

7,041,154	Staroselsky et al	5/2006
WO 98/35739	Chao et al	8/1998
WO 02/11868	Sale et al.	2/2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The Final (Supplemental) rejection is discussed on paper dated 8/6/07 (listed in the file content as CTMS (8/06/07)).

(10) Response to Argument

Applicant argues with regards to the rejection under 102 that references WO'739 and WO'868 do not teach the "indistinct, seamless boundary" between the two membrane layers. In both references the membranes are continuous between the layers and the process of producing the layers or coating a second layer is done in a wet state, which does not produces demarcation between the layers, or distinction between the formed layers other than for the pore size. The membrane used in the fluid separator of claim 16 does not exclude porous membranes. Applicant's membrane is made with an intermediate drying between coating steps, which "does" produce a demarcation or boundary between the formed layers, and discontinuity between the layers.

The test for anticipation is whether claims read on the product or process disclosed in the prior art reference, not what reference "teaches". Kalman v. Kimberly-Clark Corp., 713 F2d 760; 218 USPQ.

Applicant argues the combination of WO'739 with Nemser or Bowser in the rejection of claim 6. WO'739, as discussed in the Office action, teaches performing multiple coating steps to increase membrane up to a desired thickness, therefore, providing further layer of membranes on the membranes of Nemser to produce a composite membrane would have been obvious to the skilled artisan, e.g. to correct defects (pinholes) that may be present on the membrane. Bowser ('650) teaches the alternative of drying between coating stages, as discussed in the Office action.

Although we appreciated that individual defects of the reference or patent claims can defeat the rejection, we do not find the rejection overcome by pointing out that one reference does not contain a particular teaching, when the reliance for that teaching was on another "reference". In re Lyons, 53 CCPA 1514; 364 F.2d 1005; 150 USPQ 741. The additional support for drying between stages found in Bowser ('650).

Furthermore, selecting pre-made, dried membranes as support for composite membranes is conventional in the art. Applicant fails to clearly respond to the question of how an indistinct seamless boundary can be produced between layers, when there is a heating step in between steps, and in general what is novel in the apparatus or process of making of claim 6 and 16, and dependent claims.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Art Unit: 1797

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Ana M Fortuna/

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/David R. Sample/

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